

AMENDED IN ASSEMBLY APRIL 14, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1904

Introduced by Assembly Member Torrico

February 7, 2008

An act to amend Section 14553.2 of the Government Code, and to amend Section 188.8 of, ~~and to add Section 182.10 to,~~ the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1904, as amended, Torrico. Transportation: programming of projects.

Existing law provides for the state to issue tax-exempt anticipation notes backed by annual federal appropriations for federally funded transportation projects, which are known as "GARVEE bonds." Existing law requires the California Transportation Commission to establish guidelines to implement these provisions and identify projects that are eligible for funding.

This bill would also require the commission to establish guidelines for a process to enable a county, or the regional transportation planning agency on behalf of the county, to exchange funds apportioned to the county under the state transportation improvement program for federal funds in order to fund a project with GARVEE bonds.

Existing law requires the California Transportation Commission to program interregional and regional transportation capital improvement projects through the State Transportation Improvement Program process, consistent with estimated available funding. Existing law requires

regional improvement projects nominated by regional agencies to be programmed by the commission pursuant to certain formulas, known as the north-south split and county shares. Existing law provides for county shares to be calculated based 75% on the population of a county and 25% on the total state highway miles in a county.

This bill, for purposes of calculation of state highway miles in a county for the county shares formula, would provide that the total number of state highway miles in a county shall be calculated so that it is not less than the total number of state highway miles that existed in the county on January 1, 2008. The bill would also require the commission, along with other transportation related entities to, develop guidelines establishing a process for a regional transportation planning agency or a countywide transportation planning agency to exchange specified state transportation funds apportioned to a county for specified federal transportation funds. The bill would declare the intent of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 182.10 is added to the Streets and~~
- 2 ~~Highways Code, to read:~~
- 3 ~~182.10. (a) It is the intent of the Legislature to promote the~~
- 4 ~~timely delivery of projects by providing flexibility in the use of~~
- 5 ~~state and federal funds in a manner that accelerates the delivery~~
- 6 ~~of transportation projects. The ability to exchange state funds for~~
- 7 ~~federal funds may enhance that flexibility by enabling local~~
- 8 ~~agencies to utilize tax-exempt anticipation notes backed by annual~~
- 9 ~~federal appropriations.~~
- 10 ~~(b) The commission, in cooperation with the department,~~
- 11 ~~regional transportation planning agencies, and countywide~~
- 12 ~~transportation planning agencies, shall develop guidelines and~~
- 13 ~~procedures to implement this section and shall hold a public hearing~~
- 14 ~~on the guidelines.~~
- 15 ~~(c) The guidelines shall establish a process for a regional~~
- 16 ~~transportation planning agency or a countywide transportation~~
- 17 ~~planning agency to exchange funds apportioned pursuant to Section~~
- 18 ~~188.8 to a county for federal transportation funds for the purpose~~

1 of funding a project pursuant to Section 14553 of the Government
2 Code.

3 *SECTION 1. Section 14553.2 of the Government Code is*
4 *amended to read:*

5 14553.2. The commission, in cooperation with the department
6 and regional transportation planning agencies, shall establish
7 guidelines for eligibility for funding allocations under this chapter.
8 The guidelines shall be nondiscriminatory and shall be designed
9 to allow as many counties as possible to establish eligibility for
10 funding allocations under this chapter, regardless of the population
11 or geographic location of the county. *The guidelines shall also*
12 *establish a process for a county, or the regional transportation*
13 *planning agency on behalf of the county, to exchange funds*
14 *apportioned to the county pursuant to Section 188.8 for federal*
15 *transportation funds for the purpose of funding a project pursuant*
16 *to this chapter.*

17 SEC. 2. Section 188.8 of the Streets and Highways Code is
18 amended to read:

19 188.8. (a) From the funds programmed pursuant to Section
20 188 for regional improvement projects, the commission shall
21 approve programs and program amendments, so that funding is
22 distributed to each county of County Group No. 1 and in each
23 county of County Group No. 2 during the county share periods
24 commencing July 1, 1997, and ending June 30, 2004, and each
25 period of four years thereafter. The amount shall be computed as
26 follows:

27 (1) The commission shall compute, for the county share periods
28 all of the money to be expended for regional improvement projects
29 in County Groups Nos. 1 and 2, respectively, as provided in Section
30 188.

31 (2) From the amount computed for County Group No. 1 in
32 paragraph (1) for the county share periods the commission shall
33 determine the amount of programming for each county in the group
34 based on a formula that is based 75 percent on the population of
35 the county to the total population of County Group No. 1 and 25
36 percent on state highway miles in the county to the total state
37 highway miles in County Group No. 1.

38 (3) From the amount computed for County Group No. 2 in
39 paragraph (1) for the county share periods the commission shall
40 determine the amount of programming for each county in the group

1 based on a formula that is based 75 percent on the population of
2 the county to the total population of County Group No. 2 and 25
3 percent on state highway miles in the county to the total state
4 highway miles in County Group No. 2.

5 (b) Notwithstanding subdivision (a), that portion of the county
6 population and state highway mileage in El Dorado and Placer
7 Counties that is included within the jurisdiction of the Tahoe
8 Regional Planning Agency shall be counted separately toward the
9 area under the jurisdiction of the Tahoe Regional Transportation
10 Agency and may not be included in El Dorado and Placer Counties.
11 The commission shall approve programs, program amendments,
12 and fund reservations for the area under the jurisdiction of the
13 Tahoe Regional Transportation Agency that shall be calculated
14 using the formula described in paragraph (2) of subdivision (a).

15 (c) A transportation planning agency designated pursuant to
16 Section 29532 of the Government Code, or a county transportation
17 commission created by Division 12 (commencing with Section
18 130000) of the Public Utilities Code, may adopt a resolution to
19 pool its county share programming with any county or counties
20 adopting similar resolutions to consolidate its county shares for
21 two consecutive county share periods into a single share covering
22 both periods. A multicounty transportation planning agency with
23 a population of less than three million may also adopt a resolution
24 to pool the share of any county or counties within its region. The
25 resolution shall provide for pooling the county share programming
26 in any of the pooling counties for the new single share period and
27 shall be submitted to the commission not later than May 1
28 immediately preceding the commencement of the county share
29 period.

30 (d) For the purposes of this section, funds programmed shall
31 include the following costs pursuant to subdivision (b) of Section
32 14529 of the Government Code:

33 (1) The amounts programmed or budgeted for both components
34 of project development in the original programmed year.

35 (2) The amount programmed for right-of-way in the year
36 programmed in the most recent state transportation improvement
37 program. If the final estimate is greater than 120 percent or less
38 than 80 percent of the amount originally programmed, the amount
39 shall be adjusted for final expenditure estimates at the time of
40 right-of-way certification.

1 (3) The engineer's final estimate of project costs, including
2 construction engineering, presented to the commission for approval
3 pursuant to Section 14533 of the Government Code in the year
4 programmed in the most recent state transportation improvement
5 program. If the construction contract award amount is less than
6 80 percent of the engineer's final estimate, excluding construction
7 engineering, the department shall notify the commission and the
8 commission may adjust its project allocation accordingly.

9 (4) Project costs shown in the program, as amended, where
10 project allocations have not yet been approved by the commission,
11 escalated to the date of scheduled project delivery.

12 (e) Project costs may not be changed to reflect any of the
13 following:

14 (1) Differences that are within 20 percent of the amount
15 programmed for actual project development cost.

16 (2) Actual right-of-way purchase costs.

17 (3) Construction contract award amounts, except when those
18 amounts are less than 80 percent of the engineer's final estimate,
19 excluding construction engineering, and the commission has
20 adjusted the project construction allocation.

21 (4) Changes in construction expenditures, except for
22 supplemental project allocations made by the commission.

23 (f) For the purposes of this section, the population in each county
24 is that determined by the last preceding federal census, or a
25 subsequent census validated by the Population Research Unit of
26 the Department of Finance, at the beginning of each county share
27 period.

28 (g) For the purposes of this section, "state highway miles" means
29 the miles of state highways open to vehicular traffic at the
30 beginning of each county share period. However, in making the
31 calculation of state highway miles in a county, the total number
32 of state highway miles in a county shall not be less than the total
33 number of state highway miles that existed in the county on January
34 1, 2008.

35 (h) It is the intent of the Legislature that there is to be flexibility
36 in programming under this section and Section 188 so that, while
37 ensuring that each county will receive an equitable share of state
38 transportation improvement program funding, the types of projects
39 selected and the programs from which they are funded may vary
40 from county to county.

1 (i) Commencing with the four-year period commencing on July
2 1, 2004, individual county share shortfalls and surpluses at the end
3 of each four-year period, if any, shall be carried forward and
4 credited or debited to the following four years.

5 (j) The commission, with the consent of the department, may
6 consider programming projects in the state transportation
7 improvement program in a county with a population of not more
8 than 1,000,000 at a level higher or lower than the county share,
9 when the regional agency either asks to reserve part or all of the
10 county's share until a future programming year, to build up a larger
11 share for a higher cost project, or asks to advance an amount of
12 the share, in an amount not to exceed 200 percent of the county's
13 current share, for a larger project, to be deducted from shares for
14 future programming years. After consulting with the department,
15 the commission may adjust the level of programming in the
16 regional program in the affected region against the level of
17 interregional programming in the improvement program to
18 accomplish the reservation or advancement, for the current state
19 transportation improvement program. The commission shall keep
20 track of any resulting shortfalls or surpluses in county shares.

21 (k) Notwithstanding subdivision (a), in a region defined by
22 Section 66502 of the Government Code, the transportation planning
23 agency may adopt a resolution to pool the county share of any
24 county or counties within the region, if each county receives no
25 less than 85 percent and not more than 115 percent of its county
26 share for a single county share period and 100 percent of its county
27 share over two consecutive county share periods. The resolution
28 shall be submitted to the commission not later than May 1,
29 immediately preceding the commencement of the county share
30 period.

31 (l) Federal funds used for federal demonstration projects that
32 use federal obligational authority otherwise available for other
33 projects shall be subtracted from the county share of the county
34 where the project is located.